

**§ 124.1024 Appeals of disadvantaged status determinations.**

(a) *Who may appeal.* Appeals of protest determinations may be filed with the SBA's DADA/GC&MED by the protested concern, the protestor, or the contracting officer.

(b) *Timeliness of appeal.* An appeal must be in writing and must be received by the DADA/GC&MED no later than 5 working days after the date of receipt of the protest determination. SBA will dismiss any appeal received after the five-day time period.

(c) *Notice of appeal.* Notice of the appeal must be provided by the party bringing an appeal to the procuring activity contracting officer and either the protested concern or original protestor, as appropriate.

(d) *Grounds for appeal.* SBA will reexamine a protest determination only if there was a clear and significant error in the processing of the protest, or if the AA/SDBCE, or designee, failed to consider a significant material fact contained within the information supplied by the protestor or the protested concern. SBA will not consider protest determination appeals based on additional information or changed circumstances which were not disclosed at the time of the decision of the AA/SDBCE or designee, or which are based on disagreement with the findings and conclusions contained in the determination.

(e) *Contents of appeal.* No specific format is required for the appeal. However, the appeal must identify the protest determination which is appealed, and set forth a full and specific statement as to why the determination is erroneous under paragraph (c) of this section.

(f) *Completion of appeal after award.* An appeal may proceed to completion even though an award of the SDB acquisition or other procurement requirement which prompted the protest has been made, if so desired by the protested concern, or where SBA determines that a decision on appeal would have a material impact on contracting decisions, such as where the contracting officer agrees:

(1) In the case where an award is made to a concern other than the protested concern, to terminate the con-

tract and award to the protested concern if the appeal finds that the protested concern is disadvantaged; or

(2) In the case where an award is made to the protested concern, to terminate the contract if the appeal finds that the protested concern is not disadvantaged.

(g) The appeal will be decided by the DADA/GC&MED, within 5 working days of its receipt, if practicable.

(h) The appeal decision will be based only on the information and documentation in the protest record as supplemented by the appeal. SBA will provide a copy of the decision to the contracting officer, the protestor, and the protested concern, consistent with law.

(i) The decision of the DADA/GC&MED, is the final decision of the SBA, and cannot be further appealed to OHA.

## PART 125—GOVERNMENT CONTRACTING PROGRAMS

Sec.

125.1 Programs included.

125.2 Prime contracting assistance.

125.3 Subcontracting assistance.

125.4 Government property sales assistance.

125.5 Certificate of Competency Program.

125.6 Prime contractor performance requirements (limitations on subcontracting).

125.7 [Reserved]

### Subpart A—Definitions for the Service-Disabled Veteran-Owned Small Business Concern Program

125.8 What definitions are important in the Service-Disabled Veteran-Owned (SDVO) Small Business Concern (SBC) Program?

### Subpart B—Eligibility Requirements for the SDVO SBC Program

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125.10 Who does SBA consider to control an SDVO SBC?

125.11 What size standards apply to SDVO SBCs?

125.12 May an SDVO SBC have affiliates?

125.13 May 8(a) Program participants, HUBZone SBCs, Small and Disadvantaged Businesses, or Women-Owned Small Businesses qualify as SDVO SBCs?

### Subpart C—Contracting with SDVO SBCs

125.14 What are SDVO contracts?